

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 8/17/2018 2:54:21 AM
To: Mills, Derek [Mills.Derek@epa.gov]
CC: Wade, Alexis [Wade.Alexis@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: Fwd: Florida 404 Assumption updates
Attachments: OGC, R4, OWOW Proposed Path on FL ESA 4.19.18.docx; ATT00001.htm; FL Assumption ESA Hot issues paper 03-21-18.docx; ATT00002.htm

Derek,

I also recommend including both of the attachments at the bottom of this email. I think one of them was attached to the email I just sent you from Steve, so you may want to check that to avoid duplication. Thanks!

Simma

Begin forwarded message:

From: "Kupchan, Simma" <Kupchan.Simma@epa.gov>
Date: August 8, 2018 at 5:15:29 PM EDT
To: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>
Cc: "Wade, Alexis" <Wade.Alexis@epa.gov>, "Messier, Dawn" <Messier.Dawn@epa.gov>
Subject: RE: Florida 404 Assumption updates

It's on the agenda already, anyway. I can bring the papers from last time around just in case. It's possible they may suffice with just a little bit of tweaking.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Neugeboren, Steven
Sent: Wednesday, August 08, 2018 5:05 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Wade, Alexis <Wade.Alexis@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>
Subject: Re: Florida 404 Assumption updates

I'm not sure. It may be that he's back next week. Should we just discuss strategy with David at reg review? Maybe we can simplify/reduce burden.

Sent from my iPhone

Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Aug 8, 2018, at 4:48 PM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:

Steve, do you think this can wait till Monday? David said he'd like to get this to Matt while Matt is out; I don't recall how long he is out.

Simma Kupchan
EPA Office of General Counsel
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From: Wade, Alexis
Sent: Wednesday, August 08, 2018 4:43 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: RE: Florida 404 Assumption updates

I feel like absolutely every project or issue blew up in the last 12 hours. I'm not surprised this is back. If you have time to take the first stab at it, that would be great. Are you trying to get this to David tomorrow?

Alexis Wade
Attorney-Adviser
Water Law Office
EPA Office of General Counsel
(202) 564-3273

From: Kupchan, Simma
Sent: Wednesday, August 08, 2018 4:30 PM
To: Wade, Alexis <Wade.Alexis@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Florida 404 Assumption updates

Hi Alexis and/or Dawn,

Ex. 5 AC/DP

Ex. 5 AC/DP

See below. I can take a first shot at this; would one of you be free to review and coordinate with me on it? I'm not sure how you want to divide up this issue between the two of you. Thank you!

Simma Kupchan
EPA Office of General Counsel
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202-564-3105
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From: Fotouhi, David
Sent: Wednesday, August 08, 2018 4:16 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Florida 404 Assumption updates

Thanks, Simma. A Florida visit is news to me; I recall that Matt was planning to visit R4 in Atlanta on August 21. I will follow up with him.

Ex. 5 AC/DP

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Kupchan, Simma

Sent: Wednesday, August 8, 2018 2:21 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie
<Wehling.Carrie@epa.gov>

Subject: Florida 404 Assumption updates

Hi David,

We have heard that Dave Ross and Matt are planning to go to Florida the week of August 20 for meetings on Florida's assumption of the 404 program. This is the same week that R4 and FDEP staff are planning a face to face meeting. We wanted to check in with you to see if we could provide anything to assist Matt and Dave, or you, in advance.

Also, R4 has told us that Florida has given them the attached flowchart outlining an approach to addressing concerns about ESA liability for state-issued permits. Florida has informed R4 that industry representatives shared an identical chart with Dave Ross at a HQ meeting. I believe the RA may have called or may try to call Matt and Dave to discuss this approach.

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

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